

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

SUZANNE SULLIVAN,)
)
Plaintiff,)
)
v.) Case No. 14-CV-516-FHM
)
CAROLYN W. COLVIN, Acting)
Commissioner of the Social)
Security Administration,)
)
Defendant.)

OPINION AND ORDER

Plaintiff seeks an award of attorney fees in the amount of \$3,537.75 under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412. [Dkt. 26]. The Commissioner has no objection to Plaintiff being awarded fees in the requested amount.¹ [Dkt. 27].

The court finds that the amount of the fee request is reasonable. Based on that finding and the absence of any objection to the amount of the fee request, the undersigned finds that Plaintiff should be awarded EAJA fees in the amount of \$3,537.75. Pursuant to the Commissioner's usual practice, the check should be made payable to Plaintiff and mailed to counsel's address. If Plaintiff's attorney receives the fees awarded herein and attorney fees are also awarded and received by counsel under 42 U.S.C. § 406(b) of the Social Security Act, counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

¹ 28 U.S.C. § 2412(d)(1)(B) provides that a party seeking fees has 30 days from the date of judgment in which to file an application for fees. Judgment was entered in this case in March 15, 2016. [Dkt. 25]. The Motion for Attorney Fees was filed over two months later, on May 17, 2016. [Dkt. 26]. The motion is untimely. Since the Commissioner has no objection to an award of attorney fees, the court will grant the untimely motion. However, counsel is advised to adhere to the time set out in the statute.

Plaintiff's Motion for Attorney's Fees and Expenses Under the Equal Access to Justice Act, [Dkt. 26], is GRANTED as provided herein.

SO ORDERED this 10th day of June, 2016.

Frank H. McCarthy
FRANK H. McCARTHY
UNITED STATES MAGISTRATE JUDGE